

Notice of Allowability

Application No.

09/666,339

Applicant(s)

GOLDBERG ET AL.

Examiner

Lynda Jasmin

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to amendment filed February 11, 2005.
2. ☒ The allowed claim(s) is/are 3-5, 10, 11, 18, 21-26 and 28-38.
3. ☒ The drawings filed on 21 September 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.
THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4/30/04
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Andrew B. Schwaab on May 13, 2005.

The application has been amended as follows:

In claim 3

A system for vending copies of an electronic work, the system including:

- (a) means for receiving a plurality of bids from a plurality of bidders;
- (b) means for storing the bids;
- (c) means for select a bid from the plurality of bids, wherein the bid being submitted by one of the bidders;
- (d) means for selecting a sample of bids from the plurality of bids, wherein the sample of bids does not include the bid from the one bidder;
- (e) means for deriving a threshold from the sample of bids,
- (f) means for comparing the bid of the one bidder with the threshold to determine whether to vend a copy of the electronic work to the bidder based, at least in part, on the comparison; and
- (g) a network interface unit for sending a copy of the electronic work to the bidder;

wherein copies of the electronic work available to be vended by the system comprise a quantity of copies that is greater than the quantity of bids in the plurality of bids.

In claim 21

A system as in claim 3, in which the means for deriving is a processor which compares the bid with the threshold in order to determine whether to distribute a copy of the electronic work to the bidder.

In claim 22

A system as in claim 3, wherein the means for selecting a sample of bids comprises means for selecting a new bid and a new sample of one or more bids from the plurality of bids each time a new bid is submitted by a new bidder.

Claim 27 Cancelled

In claim 33

A system of claim 25, wherein the payment processing component comprises a computer readable media containing a program of instructions.

2. The following is an examiner's statement of reasons for allowance:

The closest prior art Brett et al. shows an auctioning system having a memory storing a plurality of previously accepted bid records. Brett et al. further determines a lowest minimum acceptable bid value corresponding to a received section information using the previously accepted bid information records stored in the memory, and store

the received bid information record if a value represented by a received bid price information exceeds the lowest minimum acceptable bid value.

However, Brett et al. fails to suggest "vending copies of an electronic work in combination with having means for selecting a sample of bids from the plurality of bids, wherein the sample of bids does not include a bid from one of the bidders, and means for deriving a threshold from the sample of bids, and for comparing the bid of the one bidder with the threshold to determine whether to vend a copy of the electronic work to the one bidder based, at least in part, on the comparison.

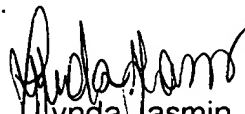
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (571) 272-6782. The examiner can normally be reached on Monday- Friday (9:30-6:00) with Increased Flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert P Olszewski can be reached on (571) 272-6788. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

 5/16/05
Lynda Jasmin
Primary Examiner
Art Unit 3627

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